

REMARKS

Applicant is in receipt of the Office Action mailed June 27, 2005. Claims 1-37 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

Provisional Obviousness-Type Double Patenting Rejections

Claims (1, 19, 20), (21), (25), and (35) were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over respective claims (1, 3, 8), (16), (20), (21), and (28) of co-pending Application No. 10/100,559. As stated in the previous Response, in the event that the conflicting claims are patented, Applicant agrees to file a Terminal Disclaimer to resolve this issue.

Section 102 Rejections

Claims 1-13, 15, 16, 18-24, and 26-35 were rejected under 35 U.S.C. 102(b) as being anticipated by Meyer (U.S. Patent No. 5,940,296, "Meyer"). Applicant respectfully disagrees.

Claim 1 recites:

1. A method for specifying a computer-implemented process, the method comprising:

displaying a graphical user interface comprising a plurality of possible steps that are useable in specifying at least a portion of a process;

receiving first user input selecting a plurality of steps specifying a first portion of the process;

creating a process specification in response to the first user input, wherein the process specification comprises the plurality of steps specifying the first portion of the process;

receiving second user input selecting a plurality of nodes and interconnecting at least two of the plurality of nodes, thereby specifying a plurality of interconnected nodes;

creating a block diagram in response to the second user input, wherein the block diagram specifies a second portion of the process, wherein the second portion of the process is distinct from the first portion of the process, and wherein the block diagram is distinct from the process specification;

wherein the block diagram comprises the plurality of interconnected nodes which visually indicate operation of the second portion of the process;

wherein the process specification and the block diagram collectively specify the computer-implemented process.

Meyer is directed to a system and method for interactively specifying a machine vision application in the form of a Grafcet diagram, where the Grafcet diagram (i.e., a Grafcet block diagram) includes standard Grafcet transitions and steps, as well as ActiveX controls as additional Grafcet steps.

The Examiner asserts that Meyer teaches “receiving first user input selecting a plurality of steps specifying a first portion of the process” and “creating a process specification in response to the first user input, wherein the process specification comprises the plurality of steps specifying the first portion of the process”, citing col. 7:31 to col. 8:65, and Figures 3-6 and 8; “receiving second user input selecting a plurality of nodes and interconnecting at least two of the plurality of nodes, thereby specifying a plurality of interconnected nodes”, citing col. 9:34 to col. 10:50, and Figures 4-6; and “creating a block diagram in response to the second user input, wherein the block diagram specifies a second portion of the process, wherein the second portion of the process is distinct from the first portion of the process, and wherein the block diagram is distinct from the process specification; wherein the block diagram comprises the plurality of interconnected nodes which visually indicate operation of the second portion of the process; wherein the process specification and the block diagram collectively specify the computer-implemented process”, citing Figures 2, 3-6, 8, and col. 7:31 to 8:65, col. 2:58 to col. 5:17, col. 9:34 to col. 10:50, col. 11:5 to 13:50.

Applicant respectfully disagrees, noting that col. 7:31 to col. 8:65 describes a machine vision system with reference to Figure 2, and a toolbar/toolbox for interactively selecting or specifying steps in a machine vision application (Figure 3); Figures 4-6

illustrate Grafcet diagrams created interactively by a user via selection of tools/steps from the toolbar/toolbox or via menus; and Figure 8 is not described in the detailed description. However, in the brief description of the drawings Meyer states: FIG. 8 is a block diagram flow chart illustrating a typical operation sequence in a normal running mode of the vision system which is waiting for a "part present" signal. Applicant notes that the flowchart of Figure 8 is neither generated nor displayed in Meyer's system, and is not a block diagram or a process specification as recited in claim 1.

Moreover, col. 9:34 to col. 10:50 describes interactive development of a machine vision application via user selection of tools/steps from the toolbar/toolbox. In other words, this portion simply describes the use of the toolbar/toolbox to create a Grafcet diagram, e.g., via dragging and dropping, such as those shown in Figures 4-6. Col. 2:58 to col. 5:17 is a summary of Meyer's invention, describing interactive development of machine vision applications by a user. Col. 11:5 to col. 13:50 describes further details of the interactive development method of Meyer, as well as execution of the generated machine vision applications.

The Examiner further asserts that Meyer teaches "two distinct portions, a process specification and a block diagram, which operate in conjunction to specify a process", citing col. 9:34 to col. 10:50, and Figures 4-6.

Applicant respectfully submits that there are numerous features of claim 1 not taught by Meyer, and further submits that the Examiner has mischaracterized Meyer. In addition to the arguments directed to Meyer presented in the previous Response, which is hereby incorporated by reference, Applicant respectfully requests the Examiner to consider the following:

Based on the cited col. 7:31 to col. 8:65, and Figures 3-6, the Examiner appears to consider the user dragging and dropping tools/steps from the toolbar/toolbox onto the Grafcet diagram window to teach receiving the first user input selecting a plurality of steps specifying a first portion of the process; and the resulting Grafcet diagrams shown in Figures 4-6 to be the "process specification" generated in response to this input.

The Examiner then asserts that 9:34 to col. 10:50, and Figures 4-6 disclose receiving the second user input and generating a block diagram in response, where the

block diagram is distinct from the process specification generated in response to the first user input, and argues that “the toolbox is the GUI that allows the user to create process specification [sic] (first portion) in response to user input, which comprises a plurality of image processing steps”, and that “interactively building machine vision application specifically is creating block diagram, which specifically is the second portion”.

However, as mentioned above and argued previously, the cited portion and figures (the same figures cited for the “first user input/process specification aspect of the claim”) simply describe use of the toolbar/toolbox to interactively generate the Grafcet diagram(s), e.g., the diagrams of Figures 4-6. In other words, as argued in the previous Response, the Examiner’s alleged “two distinct portions, a process specification and a block diagram”, are actually the same. Meyer makes clear that the toolbox (toolbar) is used to interactively create the Grafcet diagrams, and so the Examiner’s alleged “process specification” and “block diagram” are *not* distinct from one another.

Thus, Applicant respectfully submits that Meyer fails to teach or suggest all the features and limitations of claim 1, and so, for at least the reasons provided above, claim 1 and those claims dependent therefrom are patentably distinct and non-obvious over Meyer, and are thus allowable.

Claims 26, 27, and 35 include similar limitations as claim 1, and so the above arguments apply with equal force to these claims. Thus, for at least the reasons provided above, claims 26, 27, and 35, and those claims respectively dependent therefrom, are patentably distinct and non-obvious over Meyer, and are thus allowable.

Removal of the section 102 rejection of claims 1-13, 15, 16, 18-24, and 26-35 is respectfully requested.

Section 103 Rejections

Claims 14, 17, 25, and 36-37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Meyer in view of Microsoft Press Computer Dictionary (hereinafter “MPCD”). Applicant respectfully traverses the rejection.

Claims 14 and 17 depend from claim 1, which has been shown above to be allowable. Thus, for at least the reasons provided above, claims 14 and 17 are patentably distinct and non-obvious over the cited art, and are thus allowable.

Claim 25 includes some of the novel features of claim 1, but recites a script instead of a process specification. The Examiner admits that Meyer fails to teach a script as recited in claim 25, but attempts to combine Meyer with MPCD to remedy this deficiency.

As the Examiner is certainly aware, as held by the U.S. Court of Appeals for the Federal Circuit in *Ecolchem Inc. v. Southern California Edison Co.*, an obviousness claim that lacks evidence of a suggestion or motivation for one of skill in the art to combine prior art references to produce the claimed invention is defective as hindsight analysis.

In addition, the showing of a suggestion, teaching, or motivation to combine prior teachings “must be clear and particular Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

Applicant respectfully submits that the Examiner’s attempted combination is improper. For example, the only motivation to combine suggested by the Examiner is “because one of ordinary skill in the art would have been motivated to allow the user to graphically connect inspection steps to each other”. Applicant submits that the Examiner has simply asserted that there is a motivation, but has not actually indicated what the motivation is, nor where in the prior art the motivation is suggested. Additionally, Applicant notes that Meyer nowhere mentions or even hints at scripts, nor does Meyer indicate the desirability of using a script in conjunction with a block diagram to collectively specify a computer-implemented process. Neither does MPCD suggest the

desirability of using scripts and block diagrams in conjunction to specify computer-implemented processes. In fact, the MPCD citation nowhere even mentions block diagrams or graphical programming. Applicant respectfully submits that the cited art does not fairly teach or suggest to one to make the combination. Moreover, as stated in the MPEP §2143.01, “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Applicant submits that the cited art nowhere suggests such desirability.

Thus, for at least these reasons, Applicant submits that the motivation to combine is improper, and so the alleged combination is similarly improper.

Additionally, Applicant respectfully submits that even were Meyer and MPCD properly combinable, which Applicant argues they are not, the alleged combination would still not produce Applicant’s invention as represented in claim 25. For example, nowhere has the Examiner indicated how one would modify Meyer to operate in conjunction with the script of MPCD, nor is there any indication in Meyer or MPCD how such a modification could be made. The Examiner seems to imply that simply adding a script to Meyer’s Grafcet based interactive application development would somehow result in Applicant’s invention as claimed, which is clearly not the case.

Thus, Applicant submits that the Examiner’s alleged combination of Meyer and MPCD would not include the functionality facilitating or implementing conjunctive use of a block diagram and a script as claimed.

Thus, Applicant respectfully submits that, for at least the reasons provided above, claim 25 and those claims dependent therefrom are patentably distinct and non-obvious over Meyer and MPCD, taken singly or in combination, and are thus allowable.

Removal of the section 103 rejection of claims 14, 17, 25, and 36-37 is respectfully requested.

In the Examiner’s response, the Examiner asserted that Meyer discloses “storing three sets of custom control programs, wherein the first set represents components of a user interface, the second set represents the machine vision algorithms for the machine

vision system, and the third set represents hardware operating parameters”, citing col. 9:34 to col. 10:50. Applicant can find no such description in the cited portion of Meyer. Rather, these sets of control programs are only described in the abstract and claims. Moreover, Applicant submits that these three sets of control programs are not germane to the patentability of Applicant’s claims, noting that the three sets of control programs do not comprise the separate and distinct “process specification” and block diagram recited in the present claims. It is unclear to Applicant how these sets of control programs relate to the present claims.

The Examiner also asserted that Applicant had not specifically addressed the errors in the rejection in the previous Action based on the Examiner’s assertion that Meyer discloses “wherein the block diagram graphically specifies a decision operation based on execution results determined by steps in the process specifications”, where the Examiner had cited col. 7:31 to 8:65, and Figures 3-6, and 8 and associated text. Applicant respectfully submits that since Meyer’s block diagram and alleged “process specification” (as characterized by the Examiner) are not distinct, the Examiner’s assertion is incorrect. In other words, Applicant respectfully submits that the decision operations in the Grafcet diagram (block diagram) are based on execution results of steps or tools in the Grafcet diagram, not from some separately executing “process specification”. Thus, Applicant submits that the rejection based on the Examiner’s assertions is improper. Applicant respectfully requests removal of this rejection.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION

Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-52800/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Check in the amount of \$ for fees ().
- ☐ Other:

Respectfully submitted,



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